

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

Mirant Las Vegas, LLC

Docket No. ER03-1047-000

ORDER ACCEPTING FOR FILING, AS  
MODIFIED, REDISPATCH TARIFF

(Issued September 5, 2003)

1. In this order, the Commission accepts Mirant Las Vegas, LLC's (Mirant LV) Emergency Redispatch Service tariff (Redispatch tariff) with modifications to become effective on July 10, 2003, as requested.

**Background**

2. Mirant LV sells electric power and energy at wholesale at market-based rates, and owns a 533 MW generating facility in Clark County, Nevada.<sup>1</sup> Mirant LV is also an exempt wholesale generator under the Public Utility Holding Company Act of 1935.<sup>2</sup> Nevada Power Company (Nevada Power) is the owner and operator of the transmission facilities to which Mirant LV's generation facility is interconnected.

3. Mirant LV and Nevada Power have on file with the Commission an Interconnection and Operating Agreement (IOA) under which Nevada Power may use electricity produced at the Mirant LV generating facility to protect Nevada Power's system during an emergency or abnormal condition.<sup>3</sup> Nevada Power will compensate Mirant LV for the emergency service pursuant to Commission-approved rates.

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<sup>1</sup> The Commission authorized Mirant LV's wholesale sales of energy and capacity at market-based rates in a December 17, 2002 letter order, Docket No. ER03-160-000.

<sup>2</sup> See Mirant Las Vegas, LLC, 102 FERC ¶ 62,008 (2003).

<sup>3</sup> "Emergency" in the Redispatch tariff means "any circumstance or combination of circumstances or any condition of the Facility, the Interconnection Facilities, the Transmission System, or the transmission system of other electric utilities which is likely to endanger life or property necessitating immediate action to avert serious injury to

4. On July 9, 2003, Mirant LV filed pursuant to Section 205 of the Federal Power Act (FPA)<sup>4</sup> and Part 35 of the Commission's regulations,<sup>5</sup> the proposed Redispatch tariff, which establishes how much Nevada Power will compensate Mirant LV for emergency service under the IOA. Mirant LV seeks waiver of the 60-day notice requirement and requests that the Commission make the Redispatch tariff effective July 10, 2003.<sup>6</sup>

5. This Redispatch tariff provides further terms for the service and the rates Nevada Power will pay. During an emergency, Nevada Power may order Mirant LV to raise or lower the production of real power and reactive power or modify the run time of the facility in order to maintain system integrity. Nevada Power may not discriminate between the emergency redispatch of the facility and the emergency redispatch of other generating facilities, including resources owned, operated or controlled by Nevada Power or its affiliates that are connected to the transmission system.

6. Article 4 of the Redispatch tariff provides for compensation designed to keep Mirant LV whole with respect to its emergency redispatch service to Nevada Power regardless of whether Nevada Power requires an increase or decrease in the generating level or duration of operation of the facility during an emergency or abnormal condition.

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persons or serious damage to property, or is likely to adversely affect, degrade or impair transmission reliability; provided however, that to the extent [Nevada Power] serves load, any condition or situation that results from lack of sufficient generating capacity to meet any [Nevada Power] load requirements shall not constitute an Emergency hereunder." The Redispatch tariff defines an "Abnormal Condition" as "any condition at the Facility or on the Interconnection Facilities, the Transmission System or the transmission system of other electric utilities which (a) is a condition that would become an Emergency of a first contingency occurred, (b) under Good Utility Practice, necessitates preemptive action in order to maintain the reliable operation of the Interconnection Facilities, the Transmission System or the transmission system of other electric utilities, and (c) can include high or low deviations in: voltage, frequency, power flow, equipment temperature, equipment pressures, and other equipment and operating parameters; provided, however, that to the extent [Nevada Power] serves load, any conditions or situation that results from lack of sufficient generating capacity to meet any [Nevada Power] load requirements shall not constitute an Abnormal Condition."

<sup>4</sup> 16 U.S.C. § 824(d) (2000).

<sup>5</sup> 18 C.F.R. Part 35 (2003).

<sup>6</sup> 18 C.F.R. § 35.3(a) (2003).

**Public Notice, Interventions and Protests**

7. Notice of Mirant LV's filing was published in the Federal Register, with comments, protests, and interventions due on or before July 30, 2003.

8. On July 29, 2003, Nevada Power filed a motion to intervene and comments. Nevada Power states that it does not protest Mirant LV's filing. However, Nevada Power requests that the Commission clarify that the definitions of Emergency and Abnormal Condition in the Redispatch tariff must be read in conjunction with Section 3.3 of the Redispatch tariff. Specifically, Section 3.3 states that the Redispatch tariff shall not apply to actions taken by Nevada Power pursuant to Nevada Power's provision of transmission service under its Open Access Transmission Tariff (OATT). Therefore, Nevada Power argues that Section 4.1(a) of the Redispatch tariff, which requires Nevada Power to compensate Mirant LV for any lost revenues and penalties incurred as a result of interrupting sales to third parties in order to provide emergency service, is inappropriate for an emergency redispatch of the Mirant LV facility in which transmission service is curtailed pursuant to Nevada Power's OATT. Accordingly, Nevada Power requests that the Commission clarify that the Redispatch tariff does not apply when transmission service to Mirant LV is curtailed in accordance with the provisions of the OATT, or when the OATT otherwise permits Nevada Power to redispatch Mirant LV's facility.

9. Mirant LV filed an answer to Nevada Power's comments. Mirant LV agrees with Nevada Power that the Redispatch tariff must be read as an integrated document and does not object to Nevada Power's requested clarification. However, Mirant LV argues that Nevada Power's suggestion that it has the right under its OATT to curtail the output of, or redispatch, Mirant LV's facility is incorrect since Mirant LV only takes firm point-to-point and not network transmission service under Nevada Power's OATT. Accordingly, Mirant LV requests that the Commission affirm that under the OATT, Nevada Power does not have the right to order Mirant LV to redispatch any portion of the Mirant LV facility that is not a network resource under its OATT.

**Discussion****Procedural Matters**

10. Under Rule 214(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (c) (2003), Nevada Power's timely, unopposed motion to intervene serves to make it a party to this proceeding.

11. Rule 213 (a) (2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (a) (2) (2003) prohibits an answer to a protest, unless otherwise ordered by the decisional authority. We find that good cause exists to allow Mirant LV's response because it provides additional information that assists us in the decision-making process.

### **Commission Determination**

12. It appears from our preliminary analysis that the proposed Redispatch tariff is just and reasonable and has not shown to be unjust and unreasonable or unduly discriminatory or preferential or otherwise unlawful. Accordingly, we accept Mirant LLC's tariff filing, as modified, effective July 10, 2003, as requested.<sup>7</sup>

13. We agree with the parties that the Redispatch tariff must be read as an integrated document. Accordingly, Nevada Power's requested clarification that the definitions of Emergency and Abnormal Condition in the Redispatch tariff must be read in conjunction with Section 3.3 of the Redispatch tariff is granted. We direct Mirant LV to revise its Redispatch tariff to reflect the requested clarification to ensure that these definitions be read in conjunction with Section 3.3 of the Redispatch tariff. Mirant LV is directed to submit a revised Redispatch tariff within 30 days of issuance of this order.

14. We also agree with Nevada Power that, if it redispatches Mirant LV's facility or curtails transmission service pursuant to Nevada Power's OATT, those redispatches or curtailments are not emergency events that are covered by the Redispatch tariff.<sup>8</sup> Further, we agree with Mirant LV's statement that, under the OATT, Nevada Power does not have the right to redispatch any portion of the Mirant LV facility that is not a network resource.<sup>9</sup>

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<sup>7</sup> See Central Hudson Gas & Electric Corp., et al., 60 FERC ¶ 61,106, reh'g denied, 61 FERC ¶61,089 (1992).

<sup>8</sup> See Rockingham Power, L.L.C., 93 FERC ¶ 61,310 at 62,069 (2000) (when the transmission provider redispatches a generation unit pursuant to its rights under the OATT, those redispatches are not emergency redispatches covered by the redispatch tariff).

<sup>9</sup> See North American Reliability Council, 88 FERC ¶ 61,046 at 61,123-24 (1999); MidContinent Area Power Pool, 87 FERC ¶ 61,190 at 61,726-27 (1999) ("there is no such obligation to redispatch with respect to PTP transmission uses").

The Commission orders:

(A) The Redispatch tariff, as modified, is hereby accepted effective July 10, 2003, as discussed in the body of this order.

(B) Mirant LV is directed to submit a revised tariff within 30 days of issuance of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.